

HOUSE BILL 1345

Q4

2lr3016

By: **Delegates Hixson and Mizeur**

Introduced and read first time: February 16, 2012

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax – Luxury Surcharge**

3 FOR the purpose of imposing a certain surcharge on certain retail sales or use of
4 tangible personal property if the taxable price of certain items exceeds certain
5 amounts; exempting certain sales from the surcharge; providing for the amount
6 of the surcharge based on the taxable price under certain circumstances;
7 providing that certain exemptions under the sales and use tax do not apply to
8 the surcharge; and generally relating to imposition of a certain surcharge on
9 certain retail sales or use of tangible personal property if the taxable price of
10 certain items exceeds certain amounts.

11 BY repealing and reenacting, with amendments,
12 Article – Tax – General
13 Section 1–101(s) and 11–221(a)
14 Annotated Code of Maryland
15 (2010 Replacement Volume and 2011 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – Tax – General
18 Section 11–102(a)
19 Annotated Code of Maryland
20 (2010 Replacement Volume and 2011 Supplement)

21 BY adding to
22 Article – Tax – General
23 Section 11–102(d), 11–104(h), and 11–221(a–1)
24 Annotated Code of Maryland
25 (2010 Replacement Volume and 2011 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Tax – General

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1–101.

(s) (1) “Sales and use tax” means the tax imposed under Title 11 of this article.

(2) “Sales and use tax” includes:

(I) the tax imposed on the use of certain electricity under § 11–1A–01 of this article[.

(3) “Sales and use tax” includes];

(II) the hotel surcharge imposed under § 11–102(b) of this article; AND

(III) **THE LUXURY SURCHARGE IMPOSED UNDER § 11–102(D) OF THIS ARTICLE.**

11–102.

(a) Except as otherwise provided in this title, a tax is imposed on:

(1) a retail sale in the State; and

(2) a use, in the State, of tangible personal property or a taxable service.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN ADDITION TO THE TAX IMPOSED UNDER SUBSECTION (A) OF THIS SECTION, A LUXURY SURCHARGE IS IMPOSED ON A RETAIL SALE IN THE STATE OR THE USE, IN THE STATE, OF TANGIBLE PERSONAL PROPERTY, IF:

(I) FOR THE SALE OF AN ITEM OTHER THAN THE ITEMS DESCRIBED IN ITEM (II) OF THIS PARAGRAPH, THE TAXABLE PRICE OF THE ITEM IS GREATER THAN \$5,000; OR

(II) FOR THE SALE OF A MOTOR VEHICLE, MOTORCYCLE, BOAT, OR PLANE, THE TAXABLE PRICE OF THE ITEM IS GREATER THAN \$35,000.

(2) THE LUXURY SURCHARGE IMPOSED UNDER THIS SUBSECTION DOES NOT APPLY TO THE SALE OF:

1 **(I) AN ITEM PURCHASED FOR BUSINESS USE OR FOR**
2 **MEDICAL NECESSITY; OR**

3 **(II) A MANUFACTURED HOME AS DEFINED IN § 12-301 OF**
4 **THE PUBLIC SAFETY ARTICLE OR A MODULAR BUILDING AS DEFINED IN**
5 **§ 11-104(F) OF THIS SUBTITLE.**

6 **(3) (I) IN THIS PARAGRAPH, “LEASE” MEANS THE TRANSFER**
7 **OF POSSESSION, ABSOLUTELY OR CONDITIONALLY BY ANY MEANS, OF TANGIBLE**
8 **PERSONAL PROPERTY FOR A CONSIDERATION, BY WAY OF A LEASE, RENTAL,**
9 **ROYALTY AGREEMENT, OR GRANT OF A LICENSE FOR USE.**

10 **(II) FOR PURPOSES OF THE LUXURY SURCHARGE IMPOSED**
11 **UNDER THIS SUBSECTION ON A LEASE OF TANGIBLE PERSONAL PROPERTY, THE**
12 **TAXABLE PRICE OF AN ITEM SHALL BE DETERMINED BASED ON THE TOTAL OF**
13 **LEASE PAYMENTS REQUIRED FOR THE MINIMUM PERIOD THAT THE ITEM IS**
14 **LEASED.**

15 11-104.

16 **(H) THE AMOUNT OF THE LUXURY SURCHARGE IMPOSED UNDER**
17 **§ 11-102(D) OF THIS SUBTITLE IS:**

18 **(1) FOR THE SALE OF AN ITEM OTHER THAN THE ITEMS**
19 **DESCRIBED IN ITEM (2) OF THIS SUBSECTION:**

20 **(I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS ITEM, 1% OF**
21 **THE AMOUNT BY WHICH THE TAXABLE PRICE OF THE ITEM EXCEEDS \$5,000;**
22 **AND**

23 **(II) IF THE TAXABLE PRICE OF THE ITEM EXCEEDS \$20,000,**
24 **\$150 PLUS 2% OF THE AMOUNT BY WHICH THE TAXABLE PRICE OF THE ITEM**
25 **EXCEEDS \$20,000; AND**

26 **(2) FOR THE SALE OF A MOTOR VEHICLE, MOTORCYCLE, BOAT, OR**
27 **PLANE:**

28 **(I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS ITEM, 1% OF**
29 **THE AMOUNT BY WHICH THE TAXABLE PRICE OF THE ITEM EXCEEDS \$35,000;**
30 **AND**

31 **(II) IF THE TAXABLE PRICE OF THE ITEM EXCEEDS \$90,000,**
32 **\$550 PLUS 2% OF THE AMOUNT BY WHICH THE TAXABLE PRICE OF THE ITEM**
33 **EXCEEDS \$90,000.**

1 11-221.

2 (a) [The] **EXCEPT AS PROVIDED IN SUBSECTION (A-1) OF THIS SECTION,**
3 **THE** sales and use tax does not apply to:

4 (1) a sale of an admission by a person whose gross receipts from the
5 sale are subject to the admissions and amusement tax;

6 (2) a sale of a communication service, other than a taxable service,
7 rendered by a person whose charge for a communication service is or would be subject
8 to the federal excise tax as described in § 4251 of the Internal Revenue Code in effect
9 on July 1, 1979;

10 (3) a sale of a motor fuel that is subject to the motor fuel tax or the
11 motor carrier tax;

12 (4) except for a rental, a sale of a motor vehicle, other than a house or
13 office trailer, that is subject to the motor vehicle excise tax under § 13-809 or § 13-811
14 of the Transportation Article;

15 (5) a lease of a motor vehicle that is leased for a period of at least 1
16 year;

17 (6) a rental of a motion picture, motion picture trailer, or advertising
18 poster for display on theater premises by a person whose gross receipts from the
19 activity related to the rental is subject to the admissions and amusement tax; or

20 (7) except for a rental, a sale of a vessel that is subject to the excise
21 tax under § 8-716 of the Natural Resources Article.

22 **(A-1) THE EXEMPTIONS UNDER SUBSECTION (A)(4), (5), AND (7) OF THIS**
23 **SECTION DO NOT APPLY TO THE LUXURY SURCHARGE IMPOSED UNDER**
24 **§ 11-102(D) OF THIS TITLE.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 July 1, 2012.